



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ENTERGY MISSISSIPPI, INC.

PLAINTIFF

VS.

CIVIL ACTION NO. 5:11cv49-DCB-RHW

MARQUETTE TRANSPORTATION
COMPANY, LLC and
BLUEGRASS MARINE, LLC

DEFENDANTS

COMPLAINT

COMES NOW Plaintiff, Entergy Mississippi, Inc., by and through counsel, and files this Complaint against Marquette Transportation Company, LLC and Bluegrass Marine, LLC, and in support thereof would show unto the Court the following:

I.

This Complaint is within the admiralty and maritime jurisdiction of the United States, and is made pursuant to Rule 9(h) of the Federal Rules of Civil Procedure. In addition, jurisdiction exists under the Admiralty Extension Act, 46 U.S.C.S. § 30101.

II.

Entergy Mississippi, Inc. ("Entergy") is a corporation organized and existing under the laws of Mississippi and authorized to conduct business therein.

III.

Defendant Marquette Transportation Company, LLC ("Marquette") is a foreign corporation that operates its headquarters at 150 Ballard Circle, Paducah, Kentucky 42001. Marquette is incorporated in the State of Delaware. Marquette may be served with process through its President

and Chief Executive Officer, John P. Eckstein, at its headquarters in Paducah, or through its Registered Agent, CT Corporation System, 306 W. Main Street, Suite 512, Frankfort, Kentucky 40601.

IV.

Defendant Bluegrass Marine, LLC ("Bluegrass") is a foreign corporation that operates its headquarters at 150 Ballard Circle, Paducah, Kentucky 42001. Bluegrass is incorporated in the State of Delaware. Bluegrass may be served with process through its President and Chief Executive Officer, John P. Eckstein, at its headquarters in Paducah, or through its Registered Agent, CT Corporation System, 306 W. Main Street, Suite 512, Frankfort, Kentucky 40601.

V.

At all material times, Entergy was the owner and/or operator of the Baxter Wilson Steam Electric Station ("Baxter Wilson Plant") located at 770 Kemps Bottom Road, Vicksburg, MS 39180, and bordered by the Mississippi River. Entergy also owns and operates the dock and Dolphin Fender System at the Baxter Wilson Plant.

VI.

At all material times, Marquette and/or Bluegrass employed the crew working aboard the M/V Robert E. Frane, which they also owned and operated.

VII.

On or about April 5, 2008, Defendants were navigating the M/V Robert E. Frane downstream on the Mississippi River. While navigating, the Robert E. Frane and its barges, struck and damaged various components of the Dolphin Fender System at the dock of the Baxter Wilson plant located on the eastern bank of the Mississippi River. The Dolphin Fender System is designed to function

as a protective device for the dock.

VIII.

The damage caused by the Defendants to the Dolphin Fender System has rendered this protective device inoperable. Consequently, the dock is vulnerable and susceptible to possible structural damage while the Dolphin Fender System is unrepaired.

IX.

Current repair plans for the Dolphin Fender System call for the Mississippi River to be at or below ten (10) feet in height and will cost approximately \$190,000.00. Repairs made at water depths greater than ten (10) feet could double or triple the labor costs.

X.

Entergy has attempted to make an amicable demand on Defendants, but to no avail.

XI.

As a result of the Defendants' negligence and/or gross negligence, damages are currently estimated to be in excess of \$190,000.00, including without limitation, unknown damages to the Dolphin Fender System, damage assessment expenses, lost revenue, additional transportation expenses from loss of dock use, attorney fees, costs of these proceedings and any other damages to be shown at a trial of this matter.

XII.

Entergy avers that the aforementioned casualty and resulting damages were not caused or contributed to by any fault, neglect, lack of care, or other fault of Entergy, but rather resulted from the fault, neglect, and lack of care on the part of Defendants in the following particulars, among others, which will be brought out upon trial:

1. The Robert E. Frane and its barges were improperly navigating down the Mississippi River;
2. The Robert E. Frane's crew, management and owners were negligent in the operation of the Robert E. Frane;
3. The management and owners of the Robert E. Frane were negligent for improperly training the vessel's crew and other personnel how to navigate down the Mississippi River; and
4. Other negligent acts or omissions to be established at the trial of this matter.

XIII.

Entergy specifically pleads application of the doctrine of *res ipsa loquitur* because the Robert E. Frane, which caused the Plaintiff's damages, were at all material times under the exclusive control of Defendants and this casualty was of the type that does not ordinarily occur in the absence of negligence.

XIV.

Defendants are presumed to be at fault by virtue of the maritime presumption of fault arising when a moving vessel, the Robert E. Frane, strikes a stationary object, the Dolphin Fender System owned and/or operated by Entergy.

WHEREFORE, Plaintiff, Entergy prays:

1. That process in due form be issued against Defendants, Marquette Transportation Company, LLC and Bluegrass Marine, LLC, citing them to appear and answer all and singular the aforementioned matters;
2. That process and *in rem* service on the Robert E. Frane be withheld at this

time;

3. That the Court, after due proceedings, enter judgment in favor of Plaintiff and against Defendants in an amount presently estimated to be in excess of \$190,000.00 as damages, together with interest, attorneys fees and costs; and
4. That Entergy be granted all other relief to which it is entitled.

Respectfully submitted, this the 24th day of March, 2011.

ENTERGY MISSISSIPPI, INC.

By: 

Sean R. Guy (MSB#100362)

Its Attorney

OF COUNSEL:

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